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**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**Beverly Pate  
a.k.a. Beverly Ann Pate  
P.O. Box 528  
Keno, OR 97627**

**Registered Nurse License No. 517328**

Respondent.

Case No. 2013-761

**STATEMENT TO RESPONDENT**

[Gov. Code §§ 11504, 11505(b)]

**TO RESPONDENT:**

Enclosed is a copy of the Accusation that has been filed with the Board of Registered Nursing of the Department of Consumer Affairs (Board), and which is hereby served on you.

A written request for a hearing signed by you must be received to the Board no later than March 29, 2013, which is within 15 days of when the Accusation was served on you or mailed to you. Otherwise, you will be deemed to have waived your right to a hearing in this matter and the Board may proceed upon the Accusation without a hearing and may take action thereon as provided by law.

The request for hearing may be made by faxing, delivering or mailing one of the enclosed forms entitled "Notice of Defense," or by faxing or mailing a Notice of Defense as provided in section 11506 of the Government Code, to

**Brent Farrand  
Discipline Legal Support Analyst  
Board of Registered Nursing  
P.O. Box 944210  
Sacramento, CA 94244-2100  
Fax No. (916) 574-7609**

You may, but need not, be represented by counsel at any or all stages of these proceedings.

1 The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a  
2 specific denial of all parts of the Accusation, but you will not be permitted to raise any objection  
3 to the form of the Accusation unless you file a further Notice of Defense as provided in section  
4 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

5 If you file any Notice of Defense within the time permitted, a hearing will be held on the  
6 charges made in the Accusation.

7 The hearing may be postponed for good cause. If you have good cause, you are obliged to  
8 notify the Office of Administrative Hearings - Los Angeles 320 West Fourth Street, Suite 630,  
9 Los Angeles, CA 90013-2350, within ten (10) working days after you discover the good cause.  
10 Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a  
11 postponement.

12 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

13 If you desire the names and addresses of witnesses or an opportunity to inspect and copy  
14 the items mentioned in section 11507.6 of the Government Code in the possession, custody or  
15 control of the Board you may send a Request for Discovery to the designated Deputy Attorney  
16 General at the address below:

17 Katherine Messana  
18 Deputy Attorney General  
19 California Department of Justice  
20 300 South Spring Street, Suite 1702  
Los Angeles, CA 90013-0000  
(213) 897-2554

#### 21 **NOTICE REGARDING STIPULATED SETTLEMENTS**

22 It may be possible to avoid the time, expense and uncertainties involved in an  
23 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated  
24 settlement is a binding written agreement between you and the government regarding the matters  
25 charged and the discipline to be imposed. Such a stipulation would have to be approved by the  
26 Board of Registered Nursing but once approved; it would be incorporated into a final order.

27 Any stipulation must be consistent with the Board's established disciplinary guidelines;  
28 however, all matters in mitigation or aggravation will be considered. A copy of the Board's

1 Disciplinary Guidelines will be provided to you on your written request to the state agency  
2 bringing this action.

3 If you are interested in pursuing this alternative to a formal administrative hearing, or if you  
4 have any questions, you or your attorney should contact Deputy Attorney General, Katherine  
5 Messina at the earliest opportunity.

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 KATHERINE MESSANA  
Deputy Attorney General  
4 State Bar No. 272953  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2554  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. *2013-761*

11 **BEVERLY PATE AKA BEVERLY ANN**  
12 **PATE**

**A C C U S A T I O N**

13 P.O. Box 528  
14 Keno, OR 97627

15 Registered Nurse License No. 517328

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about October 30, 1995, the Board of Registered Nursing issued Registered  
23 Nurse License Number 517328 to Beverly Pate aka Beverly Ann Pate ("Respondent"). The  
24 Registered Nurse License expired on November 30, 2011, and has not been renewed. The  
25 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
26 herein.

27 ///

## JURISDICTION AND STATUTORY PROVISIONS

3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

7. California Code of Regulations, title 16, section 1419.3 provides:

"In the event a licensee does not renew his/her license as provided in Section 2811 of the code, the license expires. A licensee renewing pursuant to this section shall furnish a full set of fingerprints as required by and set out in section 1419(b) as a condition of renewal.

(a) A licensee may renew a license that has not been expired for more than eight years by paying the renewal and penalty fees as specified in Section 1417 and providing evidence of 30 hours of continuing education taken within the prior two-year period.

(b) A licensee may renew a license that has been expired for more than eight years by paying the renewal and penalty fees specified in Section 1417 and providing evidence that he or she holds a current valid active and clear registered nurse license in another state, a United States territory, or Canada, or by passing the Board's current examination for licensure."

8. Section 2761 of the Code states in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

1 following: (a) Unprofessional conduct, which includes, but is not limited to, the

2 ...

3 (4) Denial of licensure, revocation, suspension, restriction, or any other  
4 disciplinary action against a health care professional license or certificate by another  
5 state or territory of the United States, by any other government agency, or by another  
6 California health care professional licensing board. A certified copy of the decision  
7 or judgment shall be conclusive evidence of that action.

8 ...

9 (d) Violating or attempting to violate, directly or indirectly, or assisting  
10 in or abetting the violating of, or conspiring to violate any provision or term of this  
11 chapter [the Nursing Practice Act] or regulations adopted pursuant to it."

### 12 COST RECOVERY

13 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
14 administrative law judge to direct a licentiate found to have committed a violation or violations of  
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
16 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
17 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
18 included in a stipulated settlement.

### 19 FIRST CAUSE FOR DISCIPLINE

#### 20 (Disciplinary Action by the Oregon State Board of Nursing)

21 10. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of  
22 the Code in that Respondent was disciplined by the Board of Nursing of the State of Oregon  
23 ("Oregon Board"), as follows:

24 11. On or about September 16, 2009, the Oregon Board issued a Final Order approving  
25 and accepting the Stipulation for Suspension with Conditions ("Stipulation") signed by  
26 Respondent on September 14, 2009, in the disciplinary proceeding entitled *In the Matter of*  
27 *Beverly Ann Pate, RN, License No. 094000412RN*, Case No. 09-381. The Stipulation provided  
28 that Respondent's license be suspended for 30 days, beginning September 21, 2009, that  
Respondent complete two courses of study (Nursing Documentation and Professional  
Accountability) and that Respondent shall write a paper on each of the courses. The  
circumstances underlying the disciplinary action by the Oregon Board are, as follows:

12. Respondent came to the attention of the Oregon Board when it was reported that her employment had been terminated for infusing an antibiotic at twice the ordered rate, failing to report it to the physician in a timely manner and for documentation errors. On February 27, 2009, patient RH came into the outpatient infusion center for an IV infusion of Vancomycin 1700mg (250ml) to infuse over a two-hour period. Infusion center progress notes indicate that the patient's antibiotic infused in only one hour. When the error was discovered, Respondent failed to notify the patient's physician or the house supervisor of her error until the next day. Respondent told Oregon Board staff that she did not immediately notify the physician of the accelerated infusion rate error because it was the end of the day, she was fatigued and she did not want to deal with an on-call physician. Respondent failed to complete the charting of the event until the next day and she failed to label the charting as a late entry. In a review of Respondent's documentation, it was discovered that she had used white-out correction fluid over three large areas of another patient's chart. Respondent told the Oregon Board that she used correction fluid because she had written the entries in the wrong part of the chart.

#### **SECOND CAUSE FOR DISCIPLINE**

##### **(Unprofessional Conduct)**

13. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the Code on the grounds of unprofessional conduct in that Respondent was terminated for infusing an antibiotic at twice the ordered rate, failing to report it to the physician in a timely manner and for documentation errors. The conduct is described in more particularity in paragraph 12 above, inclusive and hereby incorporated by reference.

#### **THIRD CAUSE FOR DISCIPLINE**

##### **(Violating of the Nursing Practice Act)**

14. Respondent is subject to disciplinary action under section 2761, subdivision (d) of the Code in that Respondent violated provisions and terms of the Nursing Practice Act. The violations are described in more particularity in paragraphs 10 through 13 above, inclusive and hereby incorporated by reference.

///

**PRAYER**

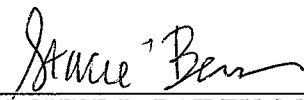
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 517328, issued to Beverly Pate aka Beverly Ann Pate;

2. Ordering Beverly Pate aka Beverly Ann Pate to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: MARCH 14, 2013

*fr*   
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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3 **BEFORE THE**  
4 **BOARD OF REGISTERED NURSING**  
5 **DEPARTMENT OF CONSUMER AFFAIRS**  
6 **STATE OF CALIFORNIA**

7 In the Matter of the Accusation Against:

Case No. 2013-761

8 **Beverly Pate**  
9 **a.k.a. Beverly Ann Pate**  
10 **P.O. Box 528**  
11 **Keno, OR 97627**

**REQUEST FOR DISCOVERY**

[Gov. Code § 11507.6]

12 **Registered Nurse License No. 517328**

Respondent.

13 **TO RESPONDENT:**

14 Under section 11507.6 of the Government Code of the State of California, parties to an  
15 administrative hearing, including the Complainant, are entitled to certain information concerning  
16 the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code  
17 concerning such rights is included among the papers served.

18 **PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE**  
19 **HEREBY REQUESTED TO:**

20 1. Provide the names and addresses of witnesses to the extent known to the Respondent,  
21 including, but not limited to, those intended to be called to testify at the hearing, and

22 2. Provide an opportunity for the Complainant to inspect and make a copy of any of the  
23 following in the possession or custody or under control of the Respondent:

24 a. A statement of a person, other than the Respondent, named in the initial  
25 administrative pleading, or in any additional pleading, when it is claimed that the act or  
26 omission of the Respondent as to this person is the basis for the administrative proceeding;

27 b. A statement pertaining to the subject matter of the proceeding made by  
28 any party to another party or persons;

1 c. Statements of witnesses then proposed to be called by the Respondent and  
2 of other persons having personal knowledge of the acts, omissions or events which are the  
3 basis for the proceeding, not included in (a) or (b) above;

4 d. All writings, including but not limited to reports of mental, physical and  
5 blood examinations and things which the Respondent now proposes to offer in evidence;

6 e. Any other writing or thing which is relevant and which would be  
7 admissible in evidence, including but not limited to, any patient or hospital records  
8 pertaining to the persons named in the pleading;

9 f. Investigative reports made by or on behalf of the Respondent pertaining  
10 to the subject matter of the proceeding, to the extent that these reports (1) contain the names  
11 and addresses of witnesses or of persons having personal knowledge of the acts, omissions  
12 or events which are the basis for the proceeding, or (2) reflect matters perceived by the  
13 investigator in the course of his or her investigation, or (3) contain or include by attachment  
14 any statement or writing described in (a) to (e), inclusive, or summary thereof.

15 For the purpose of this Request for Discovery, "statements" include written statements by  
16 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical  
17 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or  
18 summaries of these oral statements.

19 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery  
20 should be deemed to authorize the inspection or copying of any writing or thing which is  
21 privileged from disclosure by law or otherwise made confidential or protected as attorney's work  
22 product.

23 Your response to this Request for Discovery should be directed to the undersigned attorney  
24 for the Complainant at the address below within 30 days after service of the Accusation.

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1 Failure without substantial justification to comply with this Request for Discovery may  
2 subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the  
3 Government Code.

4 Dated: 3/14/2013  
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**BEFORE THE  
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In the Matter of the Accusation Against:

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**Registered Nurse License No. 517328**

Respondent.

Case No. 2013-761

**NOTICE OF DEFENSE**

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: \_\_\_\_\_

Respondent's Name: \_\_\_\_\_

Respondent's Signature: \_\_\_\_\_

Respondent's Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Respondent's Telephone: \_\_\_\_\_

**Check appropriate box:**

- ☐ The above is my new address of record.
- ☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name \_\_\_\_\_

Counsel's Mailing Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Counsel's Telephone Number \_\_\_\_\_

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

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Respondent.

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**NOTICE OF DEFENSE**

[Gov. Code §§ 11505 and 11506]

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I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: \_\_\_\_\_

Respondent's Name: \_\_\_\_\_

Respondent's Signature: \_\_\_\_\_

Respondent's Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Respondent's Telephone: \_\_\_\_\_

**Check appropriate box:**

- ☐ The above is my new address of record.
- ☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name \_\_\_\_\_

Counsel's Mailing Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Counsel's Telephone Number \_\_\_\_\_

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

**COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7**  
**PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505**

**SECTION 11507.5: Exclusivity of discovery provisions**

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

**SECTION 11507.6: Request for discovery**

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

#### **SECTION 11507.7: Petition to compel discovery; Order; Sanctions**

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

\*\*\*\*\*